

REMARKS

The present amendment is submitted in response to the final Office Action dated April 21, 2004, which set a three-month period for response, making this amendment due by July 21, 2004.

Claims 18-27 and 29-37 are pending in this application.

In the final Office Action, claims 18-21, 23, 29-31, and 35-37 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,909,183 to Borgstahl et al. Claims 22, 24, 25, and 32 were rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al in view of U.S. Patent No. 5,917,405 to Joao.

First, the Applicant respectfully submits that the finality of the rejection in the outstanding Office Action is improper. In the Office Action dated October 10, 2003, the claims were rejected under 35 U.S.C. 103 as being unpatentable over the combination of the Borgstahl and Hashimoto patents. In response, in the amendment filed February 4, 2004, no substantive changes were made to the claims. Rather, the claims were amended only to adopt standard U.S. claim format and to correct other informalities (i.e., to adopt standard method claim format in claim 18, replacing "characterized in that" with "wherein", etc.).

Therefore, the new grounds for rejection were not necessitated by the Applicant's prior amendment. The final rejection of the claims was therefore improper. The Applicant should have been afforded an opportunity to respond to these new grounds for rejection, prior to the issuance of a final rejection.

Thus, the Applicant respectfully requests withdrawal of the finality of the rejections set forth in the outstanding Office Action.

Turning now at the new grounds for rejection set forth in the Office Action, the Applicant respectfully disagrees that the pending claims are either anticipated or made obvious by the cited references.

As argued in the Applicant's previous amendment, Borgstahl et al do not teach or suggest that the controller or controller device is associated with a navigation or position determining device, and especially, that the navigation or position determining device activates the controller to automatically connect it to its controlled entities, i.e., its appliances or the like. In addition, the communication between the remote device 34 of Borgstahl, considered as similar to the data terminal of the present invention, and the peers 20, considered as similar to the integrated household control system, is not based on proximity. Only the communication between the peers 20 is based on proximity.

Furthermore, the communication between the peers 20 is not based on the determination of the distance. Instead, the communication range of the peers 20 is indirectly based on low power. Therefore, the communication range of the peers 20 depends on the environment of the peers 20. On the other side, the communication between the remote device 34 and the peers 20 is established by gateways, like PSTN and the like, and is therefore not based on proximity.

It is important to emphasize that Borgstahl does not disclose the if-then condition of the present invention, specifically, that "...if the distance from the household control based drops to a predetermined limit value, or if one reaches a

predetermined region surrounding the household control base, [then] the construction of the data connection with the integrated household control system is automatically initiated via a mobile interface of the data terminal".

Contrary to this feature of the present invention, Borgstahl discloses that a query task 60 determines whether a connection-seeking event has occurred (see column 7, lines 7-9). Borgstahl discloses further triggering a connection-seeking event by using a periodic schedule or upon the receipt of other external information (see column 7, second paragraph). Further, Borgstahl discloses initiating an unsolicited set-up connection, if a connection-seeking event has occurred (see column 7, third paragraph).

The Applicant respectfully submits that Borgstahl fails to disclose or suggest that a connection-seeking event is a drop of the distance to a predetermined limit value. Based on at least this reason, the subject matter of independent claims 18 and 29 cannot be viewed as being anticipated by Borgstahl under Section 102. Indeed, anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). Under Section 102, a prior art reference anticipates a claim only if the reference discloses every limitation of the claim. Absence from the reference of any claimed element negates anticipation. *Row v. Dror*, 42 USPQ 2d 1550, 1553 (Fed. Cir. 1997) (emphasis added).

For the reasons set forth above, the Applicant respectfully submits that claims 18-27 and 29-37 are patentable over the cited references. The Applicant further requests withdrawal of the final rejections under 35 U.S.C. 102 and 103.

The applicant respectfully requests that the Information Disclosure Statements filed 4/24/01 and 3/29/01 be considered. An initial Form 1449 is also requested.

In light of the foregoing arguments in support of patentability, the Applicant respectfully submits that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



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